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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

PATTHANA VANNALEE,

Defendant and Appellant.

C066685

(Super. Ct. No. 08F02517)

Defendant Patthana Vannalee stabbed his sister and slashed her face with a knife, causing quadriplegia and the loss of one eye. In a bench trial with merged sanity and guilt phases, the trial court found that although defendant was suffering from a mental illness, he was sane at the time of the offense. The court found defendant guilty of attempted murder, assault with a deadly weapon, and mayhem. The court sentenced him to 25 years in prison. On appeal, defendant contends the court erred in finding him sane because the evidence he was insane was of such character that no reasonable person could reject it. Finding no error, we will affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

Prior To The Assault

Several months before he assaulted his sister, defendant was temporarily staying at a friend's house when it was targeted in a drive-by shooting. Several months later, and just weeks before assaulting his sister, defendant was "jumped" and beaten. Family members¹ testified defendant's behavior significantly changed after he was "jumped." He refused to go outside, wanted his family members to close all of the curtains and turn off the lights, crawled around on the floor, and begged them not to leave the house out of fear "enemies" would hurt them. Defendant also claimed he was able to determine whether someone was dead by looking into a person's eyes. He would have conversations with the dog and randomly laugh to himself.

The Day Of The Assault

On March 28, 2008, defendant was living with his parents and two sisters, Lisa and Bouala. Defendant's sisters were watching a movie in a bedroom with Bouala's boyfriend, now husband, Christopher Kim.

There were conflicting accounts of the events leading up to the stabbing. Police interviews from the night of the event report that Bouala, Christopher, and Lisa said defendant briefly entered the bedroom once, and Christopher explained that defendant had an "intense" look on his face. At trial, however,

¹ To avoid confusion, we will refer to the family members by their first names.

Bouala and Lisa testified defendant entered the room several times throughout the movie, acting strangely, crawling around on the floor as if imitating a dog, and laughing.

Several minutes after defendant left the bedroom, Lisa went to her bedroom. Shortly after Lisa left, Christopher and Bouala heard a banging sound coming from Lisa's room. The two left the bedroom to determine the source of the noise and discovered defendant standing in Lisa's room holding a knife. Lisa had blood streaming down her face. Bouala screamed "Sam, what the F are you doing? You know that's your sister. That's your younger sister."

Again, there was inconsistent testimony on how defendant replied to Bouala's exclamation. Christopher heard defendant say in English, "[s]he is a demon; I told you." Bouala heard defendant say in English, "I have to kill her; she is a ghost, a monster, a demon." Lisa heard defendant say in Laotian, "kill the demon; it's possessing Lisa."

Christopher grabbed defendant and tried to take the knife from him. Defendant would not let go. During the struggle, defendant told Christopher he was not going to hurt him. The scuffle took Christopher and defendant toward the front door, where defendant eventually let go of the knife and ran out of the house.

Defendant ran to the house of his long-time friend, Parnuwatt Mouangvong, several hundred yards from defendant's home. Defendant repeatedly knocked on Mouangvong's bedroom window, but the knocks were ignored. In the early morning

hours, Sacramento police came to Mouangvong's house looking for defendant and informed Mouangvong defendant had stabbed his sister. Defendant hid in a garbage can until 8:00 a.m. or 9:00 a.m., when he again knocked on the bedroom window. Mouangvong let defendant into his bedroom. Defendant looked shaken up and told Mouangvong that he stabbed his sister and felt like a ghost took over.

Later that morning, police came back to Mouangvong's home. Mouangvong told defendant to hide under his bed. Police found defendant hiding and ordered him to come out. Defendant was arrested and brought to the police station for interrogation.

During the interrogation, defendant was videotaped. When left alone, defendant paced back and forth touching the wall, singing to himself, or playing imaginary drums. He was uncooperative with police and refused to answer their questions. At some point during the interrogation, police sent Mouangvong to talk to defendant. When Mouangvong entered the room, defendant became responsive and asked him a question to the effect of "how did you get here." Mouangvong told defendant that the police sent him in to talk with defendant. Once defendant realized his friend was cooperating with the police, defendant immediately covered his head with his shirt and became unresponsive again.

Pretrial

Once in custody, defendant was sent "for psychiatric evaluation due to the bizarre nature of his crime and his presentation." (Italics omitted.) In the days following his

arrest, defendant was uncooperative. Jail psychiatric notes indicate defendant refused to answer questions and gave threatening looks. As a result of this behavior, the jail psychiatric staff requested an involuntary medication order from the court. A medication regime started approximately one week after defendant was arrested. In the months following defendant's arrest, psychiatric evaluations conducted in jail indicated defendant was able to engage in competent discussions but became very agitated when asked to discuss the assault on his sister. Notes also discussed defendant's inconsistent and vague reports regarding both auditory and visual hallucinations. These inconsistencies created doubt from the jail psychiatric staff about the genuineness of defendant's symptoms and the possibility defendant was feigning symptoms.

In August 2008, the court ruled defendant mentally incompetent to stand trial and committed him to Napa State Hospital (Napa) for competency restoration. Napa treatment staff described defendant as having "minimal psychotic symptoms on admission" and noted his willingness to adhere to treatment and his improvement while housed at the facility. In April 2009 defendant was discharged from Napa and found to be mentally competent to stand trial.

Trial

During its case-in-chief, the defense presented two experts supporting defendant's plea of not guilty by reason of insanity. The first expert was Dr. Charles Schaffer, a psychiatrist who interviewed defendant on May 16, 2009. Dr. Schaffer diagnosed

defendant with either schizophrenia or schizoaffective disorder. Dr. Schaffer concluded "defendant had the ability to understand the nature and quality of his acts," meaning defendant knew he was stabbing his sister with the knife, but "[l]acked the capacity to distinguish right from wrong (morally). . . . He believed at the moment of the incident that his sister was possessed with ghosts, demons, and monsters, and that for this reason he was justified in stabbing her." Dr. Schaffer had the impression defendant stabbed his sister in self-defense; however, further questioning showed his impression was not fully supported.

Defense's second expert was Dr. Jennifer Chaffin, a psychiatrist who interviewed defendant on May 8, 2009, and also diagnosed defendant with schizophrenia. Dr. Chaffin concluded in her report that "[w]hile [defendant] knew that it was legally wrong to kill, [defendant] did not believe he was killing his sister, he believed he was killing a demon or ghost that had possessed her. He also believed that God wanted him to do this in order to save her soul. Therefore, based on these delusions, [defendant] committed the offenses thinking what he was doing was morally right." This conclusion was based on defendant's reported delusions, which Dr. Chaffin believed were adequately corroborated by other evidence. In coming to these conclusions, Dr. Chaffin minimized other evidence showing defendant exhibited indicators of malingering -- such as claiming to have blacked out, requesting benefits for his mental illness, and inconsistently reporting and describing symptoms.

The prosecutor did not offer evidence of defendant's sanity.

The Court's Decision

The trial court rejected defendant's expert testimony and found that despite suffering from a mental illness at the time of the assault, defendant was sane at the time of the offense. In concluding defendant was sane, the trial court found alternate explanations of his behavior more reasonable than those of the experts. The court reasoned that defendant's behavior on the night of the incident showed his actions were based in reality and that he was morally conscious. Because defendant was previously attacked, the trial court found defendant's behavior leading up to the attack (closing the curtains, crawling on the floor, and begging his family not to leave the house) was most reasonably explained by "his fear of physical attack or retaliation from assailants who were very human."

More importantly, on the night of the attack "[i]f the defendant felt that what he had done was legally or morally right, he immediately would have surrendered the knife and remained in the house with the family. His flight evidences a consciousness of guilt and an understanding that what he had done was both legally and morally wrong." Defendant fled, hid in a garbage can to avoid capture, and attempted to gain refuge in the home of a friend by knocking on his friend's bedroom window instead of the front door, where he might have been confronted by his friend's parents. "The fact[s] that he fled,

spent the entire night outside in a garbage can, and successfully attempted to gain sanctuary at the home of a friend all demonstrate that he knew what he had done, and that it was both legally wrong and morally wrong based on community standards of morally accepted conduct."

The court also explained defendant's behavior in the interrogation room as behavior consistent with "a convicted felon, who previously has done jail time, who is in custody on at least his fourth arrest, refusing to do anything whatsoever to cooperate with police" -- not behavior indicating schizophrenia.

When addressing the expert opinions, the trial court emphasized that the experts' conclusions are only reliable "to a medical certainty," meaning "probably" or "more likely than not." Because the diagnoses were not precise, the court questioned Dr. Chaffin's refusal to consider nonpsychotic explanations of defendant's behavior. The court said Dr. Chaffin "seemed to have an inflexible attitude about alternative possibilities to explain the defendant's behavior. This inflexible attitude towards considering other, non-psychotic reasons for defendant's behavior calls into question the validity of her opinion."

The trial court also focused on the fact that "Dr. Schaffer testified that he had to make certain assumptions about the psychiatric history upon which he relied." The court found "[i]t is not appropriate or acceptable in determining the sanity

of a defendant in a criminal matter, . . . to rely upon assumptions about purported facts upon which the expert witness relied in his or her evaluation." The court found Dr. Schaffer's conclusion that defendant stabbed his sister in self-defense was not supported by "a scintilla of evidence" because he relied on assumptions and based his conclusion on his own personal interpretations instead of objective evidence.

DISCUSSION

Defendant contends the court's finding that he was sane at the time he committed the offenses must be reversed because no reasonable person could have rejected the evidence of his insanity.

Where the defendant bears the burden of proving he was insane, and the prosecution presents no evidence, "the question on appeal is not so much the substantiality of the evidence favoring the . . . finding [of sanity] as whether the evidence contrary to that finding is of such weight and character that the [trier of fact] could not reasonably reject it." (*People v. Drew* (1978) 22 Cal.3d 333, 351.)

A defendant can be found insane "only when the accused person proves by a preponderance of the evidence that he or she was incapable of knowing or understanding the nature and quality of his or her act or he or she was incapable of distinguishing right from wrong at the time of the commission of the offense." (Pen. Code, § 25, subd. (b); *People v. Skinner* (1985) 39 Cal.3d 765, 769 (*Skinner I*).)

We must first determine whether it was reasonable for the court to conclude defendant was capable of understanding the nature and quality of his acts. Because one of defendant's own experts testified he was, it was reasonable for the court to make the same determination.

Thus, we focus our attention on the second component of the sanity test -- whether defendant was able to distinguish right from wrong when he stabbed his sister.

Both experts concluded in their reports that defendant was incapable of distinguishing right from wrong at the time of the assault. But while unanimous expert testimony "carries persuasive value," (*People v. Coogler* (1969) 71 Cal.2d 153, 166), the trier of fact is "not automatically required to render a verdict which conforms to the expert opinion." (*People v. Drew, supra*, 22 Cal.3d at p. 350.) "The value of expert testimony in assisting the trier of fact on the sanity question depends on the material from which the opinion is drawn and on the reasoning of the witness." (*People v. Skinner* (1986) 185 Cal.App.3d 1050, 1060 (*Skinner II*)).

Here, there were justifiable doubts underlying the experts' conclusions; therefore, it was reasonable for the court to reject their opinions.

Dr. Chaffin wrote in her report that defendant believed God wanted him to stab his sister. Dr. Chaffin testified that "[f]or someone to think that they're killing a demon and think that that's the right thing to do is consistent with him not knowing that it was morally wrong to do so." This moral

justification is based on only one version of the assault, but the testimony and police reports from the night of the incident were far from consistent. Three witnesses present when the assault occurred testified to different versions of what defendant said and how he acted. In its judgment, the trial court found it troubling that neither Dr. Chaffin nor Dr. Schaffer was concerned with the contradicting accounts of defendant's behavior contemporaneous with the attack.

In the months following the assault, defendant created more inconsistency by changing his own account of the assault and his mental process at the time of the offense. He claimed to have entirely blacked out the night of the assault, then stated he heard voices telling him to stab his sister just before the incident, and finally told Dr. Chaffin he felt compelled by God to commit the assault.

Defendant's inconsistencies were so rampant that jail psychiatric staff questioned whether his symptoms were real at all. Dr. Chaffin's minimization of these concerns created a reasonable basis for doubting her final conclusions. As the court wrote in its "Findings and Verdicts," Dr. Chaffin "seemed to have an inflexible attitude about alternative possibilities to explain the defendant's behavior. This inflexible attitude towards considering other, non-psychotic reasons for defendant's behavior calls into question the validity of her opinion." We agree that this was a reasonable basis for the trial court to discount Dr. Chaffin's testimony.

There was also a reasonable basis for the court to reject Dr. Schaffer's explanation of why defendant was unable to distinguish right from wrong. Dr. Schaffer concluded "[defendant] believed at the moment of the incident that his sister was possessed with ghosts, demons, and monsters, and that for this reason he was justified in stabbing her." Dr. Schaffer explained that he had the impression defendant stabbed his sister to defend himself from the demons. He admitted, however, that this purported self-defense justification was not supported by any report or interview with defendant, but was based primarily on the irrationality of the act itself. Because Dr. Schaffer's justification was speculation, it was reasonable for the trial court to reject his opinion.

Defendant also argues that the evidence of insanity could not be reasonably rejected because there was no rational explanation for defendant's assault on his sister. However, "even if [defendant] was operating within a delusional system, this would not necessarily compel a finding of insanity. It has been the law at least since *M'Naghten's*² case that whether a defendant is responsible for a killing which occurs under an insane delusion depends on the nature of the delusion. [Citation.] For example, if the delusion is that another is about to take the defendant's life, and the defendant acts in self-defense, an insanity defense will prevail. But if the

² *M'Naghten's Case* (1843) 10 Clark & Fin. 200 [8 Eng. Rep. 718].

delusion is that the victim slandered the defendant, and the latter kills for revenge, it will not. [Citation.] 'The delusion first suggested . . . results in an inability to appreciate that the act is wrong. . . . The second delusion, without more, does not suggest that the defendant believes his act is lawful or morally justified.'" (*Skinner II, supra*, 185 Cal.App.3d at p. 1060.)

In *Skinner II*, the court examined the defendant's particular delusion that killing someone would help achieve a higher level of consciousness. (*Skinner II, supra*, 185 Cal.App.3d at p. 1061.) The court determined it was not a delusion suggesting the defendant was incapable of recognizing the difference between right and wrong. (*Ibid.*) Furthermore, after the defendant committed the murder he changed clothes, took money, fled the crime scene, and exhibited extreme remorse -- actions that demonstrated the defendant had a clear understanding of what he had done. (*Ibid.*)

Here, both defense experts and the court believed defendant was suffering from a mental illness at the time of the assault. Defendant may have succumbed to an auditory hallucination (one of which he recalled urged him to "stab her, stab her" just before the incident) with full understanding that stabbing his sister was morally and lawfully wrong. With reasonable doubt underlying the expert opinions on defendant's moral conscience, defendant's state of mind at the time of the offense was unclear. Thus, the court was well within its power to consider evidence other than the experts' conclusions to determine

whether defendant was insane at the time of the assault. (See *Skinner II*, *supra*, 185 Cal.App.3d at pp. 1060-1061.)

Defendant's behavior leading up to the assault -- closing the curtains, crawling on the floor, imploring his family not to leave the house -- could reasonably be explained as actions taken out of fear of further drive-by shootings or being "jumped." With regard to defendant's behavior on the night of the assault, one of defendant's own experts testified defendant might have fled the scene to avoid getting in trouble with the law. The same expert testified defendant could have been selectively mute in the days following his arrest to further his legal strategy instead of suffering from a psychotic episode. Evidence also showed defendant hid from police and coherently told his friend he stabbed his sister. Further, one defense expert noted that defendant's vague and inconsistent reporting of symptoms during the months following the assault was potentially defendant's defense strategy.

Based on these facts, the trial court deduced reasonable explanations other than those offered by the defense, and found that defendant was "completely capable of knowing and understanding the nature and quality of his act, i.e., that he had stabbed his sister, and that she was likely to die as a result of the stab wounds, even if he suffered from a mental disease or defect at the time."

Upon considering the totality of the evidence, we conclude that it adequately supports the trial court's decision to reject the insanity defense here.

DISPOSITION

The judgment is affirmed.

ROBIE, Acting P. J.

We concur:

BUTZ, J.

DUARTE, J.